

The State of South Carolina



Office of the Attorney General

Opinion No. 87-14
P57

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-734-3636

February 3, 1987

The Honorable James W. Johnson, Jr., Member
South Carolina House of Representatives
422-A Blatt Building
Columbia, South Carolina 29211

Dear Jim:

You have requested the advice of this Office as to whether, in response to a reduction in appropriations under the Education Finance Act (EFA - §59-20-10 et seq. of the Code of Laws of South Carolina, 1976), a school district may proportionately relax the 21-1 ratio in grades one through three required by §59-20-40 (5) of the EFA. This section permits the State Board of Education to grant waivers of these requirements for individual districts upon the justification of an alternate educational program for the affected children or upon the evidence of a lack of classroom space, etc. No provision of this subsection or any other parts of the EFA permit a variance of these requirements for the sole reason of a reduction in funding.

"Where the terms of a statute are clear and unambiguous, there is no room for interpretation and [they must be applied] according to their literal meaning." South Carolina Department of Highways and Public Transportation v. Dickinson, SC, 341 S.E.2d 134 (1986). Applying this rule to the clear and unambiguous language of §59-20-40 (5) appears to require the conclusion that this provision must be followed regardless of the reduction in funding unless a variance is approved by the State Board of Education for the reasons noted above. These conclusions are not altered by the other educational statutes noted below.

The 1986 Appropriations Act (Act 540, Part I, §30 of 1986, p. 4395) provides that the 21-1 ratio be implemented "...to the extent possible on an individual class basis and that the pupil enrollment in [the affected] grades should not exceed twenty-eight (28) pupils in each class." Reading this provision with reference to §59-20-40(5) and giving each their plain meaning indicates that this §30 proviso addresses only the per class ratio whereas §59-20-40(5) addresses the average in grades 1 through 3. Dickinson, supra; Lewis v. Gaddy, 254 SC 66, 173 S.E.2d 376 (1970). Therefore, the §30 proviso does not address the question that you have raised.

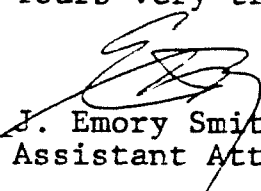
The Honorable James W. Johnson, Jr.
February 3, 1987
Page 2

Previous opinions of this Office concluded that certain pupil-teacher ratios specified in §59-29-200 of the Education Improvement Act (EIA - Act 512 of 1984, Part II, §9) for grades seven through twelve were inoperable until State funding was provided in accordance with §12-35-1559 of the EIA. Section 12-35-1559 requires that compensation etc., for new personnel employed for the purposes of the EIA must be paid from funds appropriated for that purpose by the General Assembly. Ops. Atty. Gen., (June 30, 1986). Because the pupil-teacher ratio requirements of §59-20-40 (5) are contained in the EFA rather than the EIA, they are not affected by the EIA funding requirements of §12-35-1559 or the above referenced opinions based upon that section.

In conclusion, the pupil-teacher ratio requirements of §59-20-40 (5) cannot be proportionately reduced for the reason alone that EFA funding has been proportionately reduced. Waivers for these requirements may be granted by the State Board of Education under this provision for the other reasons noted above.

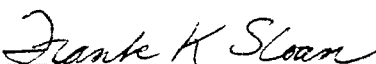
If you have any questions or if I may be of additional assistance, please let me know.

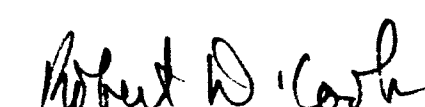
Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESjr/srcj

REVIEWED AND APPROVED BY:


Frank K. Sloan
Chief Deputy Attorney General


Robert D. Cook
Deputy Attorney General